



MINUTES OF SPECIAL JOINT MEETING OF THE  
CITY COUNCIL OF THE CITY OF HAYWARD  
City Council Chambers  
777 B Street, Hayward, CA 94541  
Tuesday, September 24, 2002, 8:00 p.m.

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MEETING

The Special Joint Meeting of the City Council/Redevelopment Agency was called to order by Mayor/Chair Cooper at 8:00 p.m., followed by the Pledge of Allegiance led by Council/RA Member Henson.

ROLL CALL

Present: COUNCIL/RA MEMBERS Jimenez, Hilson,  
Rodriquez, Ward, Dowling, Henson  
MAYOR/CHAIR Cooper  
Absent: None

PROCLAMATION: John Steinbeck Centennial Celebration Month

The Mayor made a presentation regarding the statewide campaign to read and discuss "The Grapes of Wrath." This provides the opportunity for members of the Hayward community to read the book, share stories and discover their relationship to issues facing Hayward and California today. This special month is an opportunity for government to join forces with others to celebrate and explore our cultural roots and historical bonds as portrayed in the book. Library Director Baker-Madsen introduced John Hebel who described the various celebrations and activities at the Library.

PRESENTATION: Designation of City's Equipment Management  
Division as a "Green Business"

City Manager Armas introduced Carl Baker-Madsen, Equipment Manager, who explained various actions taken by his Division in conserving water, energy and recycling methods. He then introduced and thanked several members of his staff who were in attendance.

PUBLIC COMMENTS

John Kyle, Hayward, commented on his experience as an appraiser. He also discussed Hayward Executive Airport uses.

Andrew Ellsmore, Alameda, invited members of the City Council to a Falun Gong activity on October 16 in San Francisco. He then discussed treatment of members at the hands of foreign governments.

Jason Moreno, Hayward, discussed the truck activity involved in the South of 92 project site. He suggested several proposals for truck safety.

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Susan McDonough, SEIU-790, thanked members of the Council and the City Manager for their consideration of Union concerns the previous week. She indicated that the Union was pleased with the change in language of the positions and salaries resolution.

Joseph Oberman spoke in opposition to Measure U and felt that the original by-pass was a better idea than creating a dangerous situation on Mission Boulevard.

Barbara Swarr commented on her family's property in the Redevelopment Area and living in Hayward.

## CONSENT

Items 3 and 4 were removed for further discussion.

1. Approval of Minutes of the Special Joint City Council/Redevelopment Meeting of September 17, 2002

It was moved by Council/RA Member Ward, seconded by Council/RA Member Hilson, and unanimously carried to approve the minutes of the Special Joint City Council/Redevelopment Agency Meeting of September 17, 2002.

2. Authorization to Acquire Property Located at 24083 Myrtle Street

Staff report submitted by Redevelopment Director Bartlett, dated September 24, 2002, was filed.

It was moved by Council/RA Member Ward, seconded by Council/RA Member Hilson, and unanimously carried to adopt the following:

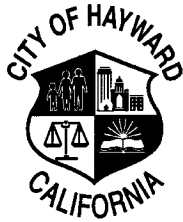
RA Resolution 02-12, "Resolution Authorizing the Acquisition of 24083 Myrtle Street"

RA Resolution 02-13, "Resolution Amending Resolution No. RA 02-09, The Budget Resolution for the Redevelopment Agency of the City of Hayward for Fiscal Year 2002-2003, Relating to a Supplemental Appropriation to be Used for Acquisition of the premises at 24083 Myrtle Street"

3. Authorization for Executive Director to Execute a Rental Agreement for Property Located at 203-b C Street

Staff report submitted by Redevelopment Director Bartlett, dated September 24, 2002, was filed.





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Shelia Junge, Hayward, asked about the difference in the relocation costs versus the rental of this property.

Executive Director Armas explained that the long-term redevelopment strategy of revitalizing the cannery area.

It was moved by Council/RA Member Henson, seconded by Council/RA Member Dowling, and unanimously carried to adopt the following:

RA Resolution 02-14, "Resolution Authorizing the Executive Director to Negotiate and Execute a Rental Agreement for 203-b C Street, in a form to be approved by the General Council"

4. Authorization for the City Manager to Accept a Federal Grant for Improvements at the Hayward Airport

John Kyle, Hayward, commented that the airport's profits were not a profitable return on the investment.

Staff report submitted by Airport Manager Shiner, dated September 24, 2002, was filed.

It was moved by Council Member Henson, seconded by Council Member Hilson, and unanimously carried to adopt the following:

Resolution 02-140, "Resolution Authorizing the City Manager to Accept and Execute a Federal Grant Agreement with the Department of Transportation, Federal Aviation Administration for Airport Improvements"

5. Adoption of Positions and Salaries Resolution for Fiscal Year 2002-03 (*continued from 9/17/02*)

Staff report submitted by Human Services Director Perrin-Scales, dated September 24, 2002, was filed.

It was moved by Council Member Ward, seconded by Council Member Hilson, and unanimously carried to adopt the following:

Resolution 02-139, "Resolution Designating Positions of

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Employment in the City Government of the City of Hayward;  
Providing for their Number and Salary Range; and Superseding  
Resolution No. 00-109 and all Amendments Thereto”

HEARINGS

6. Introduction of Ordinance for the Control of Shopping Carts

Staff report submitted by Public Works Administrative Analyst II  
Edmark, dated September 24, 2002, was filed.

Public Works Director Butler made the staff report, highlighting the stipulations of the ordinance. He noted that the proliferation of abandoned carts amount to 340 per month retrieved by staff during the past fiscal year. Numerous other cities have already enacted similar ordinances. The proposed ordinance would apply to all merchants with 5,000 square feet or more of interior store space. He noted the exception in this ordinance of a requirement for merchants to install locking wheels on carts or physical barriers when storeowners either not wish to submit an alternate plan or if that alternative proves not to be successful.

Council Member Hilson commended staff for a comprehensive report and commented that carts are expensive and a valuable asset to businesses. He asked for further information on the cost to the City in retrieving the carts.

In response to his question, Public Works Director Butler reported that it costs the City approximately \$38,000 a month to collect the shopping carts. He commented that there are some positives to this ordinance for businesses.

Council Member Jimenez commented on the business expenses in placing locking devices on shopping carts.

Public Works Director Butler reported that the ordinance provides the capability of storeowners to propose alternative solutions to the wheel locks.

Council Member Henson reiterated that it is already illegal to remove a shopping cart from grocery premises. He asked how the sign on the cart requirement would help in returning the cart to the right grocer. He asked about the enforcement of this ordinance.

Public Works Director Butler noted that this is a civil matter, but the intent of the ordinance is to prevent carts leaving the store premises.

City Manager Armas noted that as a result of Legislation a few years ago, shopping carts became a State matter. Cities fought that law and the limitations of this local ordinance stem from this legislation.





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Council Member Henson then asked if there was much discussion from the grocers on the fine, following the three-day period.

Public Works Director Butler indicated that the fining portion of the ordinance did not garner much discussion. The wheel-lock section was considered more onerous to them.

Council Member Dowling asked what is done when carts are not picked up by the stores.

Public Works Director Butler explained that approximately half are retrieved and the rest are ultimately recycled.

Council Member Rodriquez reported that she received a call from the California Grocers Association and the financial ordinance impacts.

Public Works Director Butler noted that costs are not insignificant to install the electronics to current shopping carts.

Council Member Ward suggested that various retailers might be able to group together to save on the costs. He then asked whether the CGA offered other possible solutions to this issue.

Public Works Director Butler indicated that the merchants are willing to try some alternative solutions.

Council Member Ward discussed the cost issue and commented on the letter received from the California Grocers Association that the smaller stores from their membership expressed more concern regarding the costs of the locking devices. He noted that in the east coast the carts are not removed from the store. We need to try to find a way to have an ordinance that does not severely impact the smaller merchants financially.

City Manager Armas again reiterated that the ordinance does not apply to stores under 5,000 square feet. He described alternative solutions suggested at public meetings previously held.

Mayor Cooper opened the public hearing at 8:56 p.m.

Gilbert Canizales, California Grocers Association, Long Beach, said he was representing the larger chains as well as the independents. He commented on the mandatory physical measures and the costs involved. Disabling devices are expensive and not fool proof. He noted that it is imperative to advise the general public that it is against the law to remove carts from the store premises. He then commented on the submission of an alternative plan, which must be accepted by the Public Works Director. He questioned the criteria for an alternative plan. His members would like to see an incremental approach by initially submitting a plan and allowing the

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merchant to have some allotted time to comply. He noted that his members have no problem with signs. Per State law, he agreed that fines are necessary. No other City mandates disabling devices. He noted that he was familiar with some stores charging a deposit to remove the carts from the store.

Council Member Ward thanked him for being available to respond to questions.

Council Member Henson asked if the Association has reviewed other methods in other states for maintaining shopping carts.

Council Member Jimenez asked about the fines portion of the ordinance.

Public Works Director Butler explained that it would be a misdemeanor for stores to ignore that ordinance.

Arthur Schmidt said the main issue with the ordinance is the locking wheel since it is rather costly and carts continue to be missing. He asked how much the City projects would be saving once the ordinance is in place. He suggested that the merchants would be comfortable implementing all of the requirements except the locking wheels requirement.

Public Works Director Butler indicated that any cost savings would be based on the plans submitted by the merchants. The mandatory wheel lock is only one provision of the ordinance. He indicated that plans need to be effective. If the City is picking up as many carts as before the Plan was submitted would not be considered effective.

Joseph Oberman commented on the number of carts left in front of his home from Food 4 Less. He did not see any type of enforcement in this ordinance for those customers using them and not returning them.

Sheila Junge commented favorably on the locking devices on the shopping carts.

Velvia Long commented on her experiences with shopping carts with locks, charges, and perimeter obstacles such as electronic wires.

Barbara Swarr suggested shopping carts enclosures in building complexes. She commented favorably on the enclosures and on the signage on each cart. She felt that it would impact some of the smaller merchants.

Evelyn Cormier spoke on behalf of the Fairway Park neighborhood and suggested stores implement a rental system for those who need to take shopping carts home.

Lonnie Miller from Safeway, Jackson, supported the fact that there is a problem in Hayward. He noted that with a large senior and indigent population, the problem is compounded. He suggested to staff that information should be provided to apartment complex managers that removal of carts





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is a legal violation, encouraging them, in turn, to enforce the law. He commented that they put in a fairly expensive system with an antenna, which has proven to be ineffective. He noted that he loses about 75 to 100 a day. A big expenditure to have shopping carts is that once retrieved the carts need to be steam cleaned. He reported that various types of plans have been used to prevent the loss, none so far haven proven effective. He suggested considering each merchant's plan individually.

Council Member Hilson asked him about the loss and retrieval of shopping carts and the cost savings when wheels are installed. He suggested minimizing the losses with prevention measures such as locking wheels on carts.

Mr. Miller reported that the technology is not refined enough to return the capital investment.

Roberta Deering, Atherton Place, Hayward, indicted that her complex is deluged with shopping carts from all of the stores in this area including the locking wheeled carts from Albertson's. Her family continually calls for their retrieval and urged the adoption of the ordinance.

Joel Pena, Hayward, commented on the use of young people to retrieve shopping carts in an entrepreneurial aspect. He commented that electronic gadgetry is expensive.

Mayor Cooper closed the public hearing at 9: 40 p.m.

Council Member Hilson moved, seconded by Council Member Dowling, to introduce the ordinance.

Mayor Cooper agreed that it is unsightly and unhealthy to have shopping carts around, particularly parked in front of homes. She urged shoppers to utilize personally owned shopping carts. She suggested markets might subsidize such carts. She said the owners of the stores are responsible for shopping carts. She suggested more retrieval systems should be in effect. She was not in favor of the police department issuing citations for taking a shopping cart. She added a friendly amendment to the motion that each store submit a plan to keep shopping carts on-site within three months, and another 3-months to indicate success. She asked the maker of the motion and the second to add this as a friendly amendment.

City Manager Armas pointed out that the draft ordinance states on page 2 of the ordinance that requires a plan to be submitted in 30 days, and within 60 days thereafter. If this is not fruitful, staff could return to Council to amend the ordinance.

Mayor Cooper rescinded her motion.

Council Member Dowling discussed shopping carts at bus stops as well. Once carts are left it is

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hard to get them back to the store. He noted his recent experience at the IKEA store in Emeryville and the use of barriers. He urged staff to work with the merchants. He suggested that the time be extended to sixty days to submit a plan, on page 2 section 6-12.07. He suggested that the ordinance include the sale of granny shopping carts to their customers as stores have done with canvas bags.

Council Member Hilson agreed that the merchants should offer the granny carts, but that the ordinance not include it. He commented that the sixty days would just delay the implementation of the ordinance, but agreed to add that to his motion.

City Manager Armas commented that the objective is to have the storeowners to begin concentrating on implementation of a plan whether 30-days or 60-days. He then added that when notifying merchants of the plan, staff could incorporate the sentiment of encouraging them to offer 'granny carts' to customers at discount prices.

Council Member Hilson said he would reluctantly accept the inclusion of "60-days to submit a plan" into the Ordinance and his motion.

Council Member Rodriquez suggested that the stores include the sale of 'granny carts.'

Council Member Henson suggested that any mandate would include costs to be passed on to the consumer and prices are high enough. However, this is necessary for the City of Hayward. He agreed with the sixty-day limit for submitting plans for staff review. He agreed with the idea of a collapsible cart for pedestrian shoppers.

It was moved by Council Member Hilson, seconded by Council Member Dowling, and unanimously carried to introduce the following:

INTRO ORD, 02-\_\_, "An City of Hayward Ordinance Chapter 6-  
Business, Professions, and Trades, Article 12-Shopping Carts"

#### 7. Office of Ethical Standards in Hayward Police Department

Mayor Cooper asked to consider the last item on the agenda instead of this item. This item was then continued to the meeting of October 1, 2002.

#### 8. Direction to Staff Regarding Preparation of Ordinance Involving Campaign Contribution Limits

Staff report submitted by City Manager Armas, dated September  
24, 2002, was filed.

City Manager Armas presented the materials that were verified with regard to other cities'





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ordinances. He then commented on the City of Hayward's ordinance adopted in 1997 and suspended by Proposition 208. He noted that staff was looking for direction from the Council in this regard. CASH asked for consideration on three major matters: voluntary spending limits, mandatory contribution limits, and partial public financing.

Mayor Cooper opened the public hearing at 10:01 p.m.

Al Mendall, member of CASH, suggested that limiting the amount of contributions to candidates would reduce the appearance and potential for corruption by. He said the reforms would make the citizens believe they had a role in electing their officials.

John Sands stated that this is a very important issue and the issues need to be considered in detail. He felt that spending limits reduce the importance of money, increases grass roots support, endorsement, outreach and experience. He felt that limits need to be reasonable.

Jim Forsyth commented in favor and submitted a petition in support of this proposal.

Peter Hendley spoke on partial public funding. He spoke on this proposal as a 'public good' in using City funding. He enumerated reasons for this proposal.

Scott Raty did not agree with the partial public funding. He commented that incumbents already do have advantage in name recognition. Public funding is taxpayer money being spent on something other than more important needs in this community. He urged caution.

Shelia Junge, Burbank neighborhood, urged partial public financing.

Lee Williamson, South Hayward Parish, said this non-profit supports the proposal.

John Kyle submitted a card, but did not speak.

Joseph Oberman said he was opposed to this ordinance in particular to partial public funding.

Ron Peck, President of the Greater Democratic Club, said this is a moderate proposal. He said he does encourage this grass roots proposal.

Greg Sanborn commented on the City expenses spent on lobbying.

Bill Quirk commented in favor of the contribution and spending limits and felt that a campaign could be run on such amounts. He urged approval of partial public funding.

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Velvia Long felt that this is a good start locally.

Gail Steele County Supervisor urged limits on campaign spending. She emphasized that she was really tired of seeing the amount of money being raised around political campaigns. She emphasized that if politicians can raise the millions of dollars they need to run for office, they should be able to raise the money for other needs as well. She noted that she could run for office in four cities for \$30,000, City Council members should be able to run for office in one City for \$25,000. She encouraged people to be active in the community, pay their dues and stand for issues. She would like to see Hayward set the tone for the limits. She did urge the press to assist in getting out the message.

Barbara Swarr agreed with the proposal. She disagreed with the use of soft money for slick mailers.

Andé Brescia-Pena, La Familia Counseling Center, spoke in support of the proposal for more opportunities for young people as well as the minority citizens.

Suzanne Barba, past president of the League of Women's Voters-Eden Area, spoke in favor of the CASH proposal and commended the study performed. She noted the national and state efforts in the League. Partial public financing may not be a viable solution for the Council to do. She then noted all of the other cities in the area that have campaign finance reform.

Mayor Cooper closed the public hearing at 10:36 p.m.

Council Member Dowling commended the CASH group for all their work on this issue. He recommended a first Council vote on the CASH proposal. Council Member Rodriquez seconded the motion.

Council Member Ward concurred with Council Member Dowling on commending the group for their hard work. He asked for the record to show that the City Council did in fact adopt campaign finance reform in 1997. He said he was pleased to see Supervisor Gail Steele, who runs one of the most cost effective campaigns in the area. He noted that the CASH proposal aside, the candidate who raises the most money might not be the winner.

Council Member Ward, seconded by Council Member Henson, then proposed a substitute motion for the re-adoption of the 1997 Ordinance. He then listed various conditions of the ordinance, including: voluntary spending limits that are \$50,000 for both Mayor and City Council, mandatory contribution limits, but did not include public financing.

City Attorney O'Toole said the penalties need to be revised due to the fact that the State Law is no longer there.

Council Member Henson joined with Council Member Ward. He noted that as a part of the diversity of the City of Hayward, candidates will have to work that much harder to reach a





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greater number of people in campaigns. He commended members of CASH for all their hard work. He reported that he attended the Congressional Black Caucus meeting when he was in Washington, D. C., and noted that as a minority group there was a split on campaign finance. He felt that accomplishments could be reached with the amounts set in 1997.

Council Member Jimenez asked about the 1997 ordinance and public financing. He said he worked hard to succeed in his elections. He advocated performance over money.

Council Member Ward asked to include the index for inflation as proposed in the proposal.

Council Member Hilson suggested a revision on individual contributions and Political Action Committee be increased from \$500 to \$1000. He then asked the City Attorney about penalties.

City Attorney O'Toole suggested that staff could investigate the penalties and bring them back along with the recommended ordinance.

Council Member Dowling asked for a friendly amendment that the limit for running for Council be lowered to \$35,000. He asked that voluntary self-funding limits be set at 20 percent as reasonable, and that unspent funds from a previous campaign be counted as self-financing. Mandatory contribution limits and in-kind contributions should also be included. Aggregation is an important point as well. He suggested further modifications from the CASH proposal.

Council Member Ward declined these inclusions and said the motion would stand as made.

As a result, Council Member Dowling said he would not be supporting the substitute motion. The spending limits are too high since no candidate spends that amount. He then looked to other cities and suggested they were more reasonable.

It was moved by Council Member Ward, seconded by Council Member Henson, and carried by the following roll call vote to direct staff to re-draft the 1997 ordinance:

AYES:	Council Members Jimenez, Hilson, Ward, Henson
NOES:	Council Members Rodriquez, Dowling
	Mayor Cooper
ABSENT:	None
ABSTAINED:	None

Council Member Rodriquez commented that she was disturbed by the arguments presented on the part of CASH members. She said the comments had an adverse effect on her. She

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emphasized that in a City election, it is the base you have that is the key to victory. Money helps but it is not everything. She was disturbed by many of the comments.

Mayor Cooper spoke in support of the CASH proposal, although she would have increased them somewhat. She spoke in opposition to the notion of corruption on this Council. She asked CASH members where the minorities were.

#### COUNCIL REPORTS

There were no Council Reports.

#### ADJOURNMENT

Mayor Cooper adjourned the meeting at 11:02 p.m.

#### APPROVED:

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Roberta Cooper, Mayor, City of Hayward  
Chair, Redevelopment Agency

#### ATTEST:

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Angelina Reyes, City Clerk, City of Hayward  
Secretary, Redevelopment Agency